



Timika Shafeek-Horton
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May 8, 2014

VIA ELECTRONIC FILING

The Honorable Jocelyn G. Boyd
Chief Clerk / Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29211

RE: Duke Energy Progress, Inc. — Transfer of Property

Dear Mrs. Boyd:

Attached, please find an Application for Transfer of Property pursuant to South Carolina Code Ann. Section 58-27-1300 (Cum. Supp. 2013). Duke Energy Progress, Inc. ("DEP") seeks Commission approval of a spare transformer to Duke Energy Florida, Inc. on an exigent basis. DEP has consulted with the South Carolina Office of Regulatory Staff regarding this transfer and they do not object to Commission approval of the transfer in accordance with the terms described in the Application. If there are questions about the Application, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Timika Shafeek-Horton", with a stylized flourish at the end.

Timika Shafeek-Horton
Deputy General Counsel

TSH/gw

Attachment

cc: Nanette Edwards
John Flitter

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 2014-XXX-E

In the Matter of:

Application of Duke Energy Progress, Inc.
for Approval of the Transfer of Property.

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APPLICATION

Duke Energy Progress, Inc. (“Duke Energy Progress,” “DEP” or the “Applicant”), hereby applies to the Public Service Commission of South Carolina (the “Commission”) for approval of a transfer of certain utility owned property to Duke Energy Florida, Inc. (“DEF”). The property is a spare Duke Energy Progress owned generation station unit transformer (“DEP transformer”) located at the Sherwood H. Smith Energy Complex in Hamlet, North Carolina. This Application is made pursuant to S.C. Code Ann. Section 58-27-1300 (Cum. Supp. 2013), 26 S.C. Regs. 103-830, and other applicable rules and regulations of the Commission. In support of this Application, Duke Energy Progress shows the Commission the following:

1. The name and address of the Applicant is:

Duke Energy Progress, Inc.
550 South Tryon Street
Charlotte, North Carolina 28202

2. The name and address of the Applicant’s attorney is:

Timika Shafeek-Horton
Duke Energy Corporation
550 South Tryon Street
DEC 45 A
Charlotte, North Carolina 28202

Phone: 704.382.6373

Email: Timika.Shafeek-Horton@duke-energy.com

3. Copies of all pleadings, orders or correspondence in this proceeding should be served upon Ms. Shafeek-Horton.

4. The Applicant is a public utility engaged in the generation, transmission, distribution, and sale of electric energy in South Carolina and North Carolina and is subject to the jurisdiction of this Commission.

FACTUAL BACKGROUND

5. On April 21, 2014, a fire occurred at DEF's Bartow Plant in St. Petersburg, Florida, causing significant damage to the steam turbine generator's transformer. The Bartow plant is a 4x1 natural gas combined cycle that produces approximately 1200MWs. It is located north of St. Petersburg near a major load center. The fire took place when a component on the transformer for the steam turbine generator exploded. The steam turbine generator has been out of service since that time and has reduced station output by approximately 400MW. DEF has ordered a new transformer, but it will not arrive until late 2014. DEF has tried to acquire a spare transformer from unaffiliated utilities in Florida and elsewhere, but none located have had the specifications required for the Bartow Plant. DEF needs a transformer immediately to assure reliability of service as the summer months approach and to regain its lost output.

6. Duke Energy Progress has a spare transformer. The DEP transformer is an "installed spare," which means it is connected to the plant, but is not actually in use. Duke Energy Progress proposes transferring this DEP transformer to DEF for DEF to use until its replacement transformer arrives in late 2014.

7. The fair market value of the DEP transformer is in excess of \$ 1 million. S.C. Ann. Section 58-27-1300 requires advance Commission approval of the sale, transfer, lease, assignment, consolidation or merger of utility property.

IN-KIND TRANSFER PURSUANT TO THE INTERCOMPANY ASSET TRANSFER
AGREEMENT

8. Both Duke Energy Progress and DEF are parties to the Intercompany Asset Transfer Agreement ("IATA"). The IATA provides that upon request of one party ("Recipient"), the other party ("Transferor") shall transfer those assets requested by the Recipient if the Transferor believes in its reasonable judgment that, among other things, the transfer will not jeopardize the Transferor's ability to render electric utility service to its customers consistent with Good Utility Practice and the transfer is not done in contravention of SC Code Ann. 58-27-1300. The IATA is attached as Exhibit 1.

9. The transfer of the DEP transformer will not jeopardize Duke Energy Progress' ability to render electric service to its customers, consistent with Good Utility Practice as defined in the IATA. The DEP transformer is a spare and not currently in use.

10. Duke Energy Progress proposes an in-kind transfer as permitted by section 2.1 of the IATA. Section 2.1 provides that to the extent an asset may be transferred under the IATA, the Transferor and Recipient may agree that the asset transferred to the Recipient be replaced in-kind.

11. Duke Energy Progress will transfer its spare transformer and DEF will return the transformer or a transformer that is of equal or greater value (as valued at the time of the transfer from DEP to DEF) than the DEP transformer by the end of the first quarter 2015, the time by which DEF expects to have installed its new transformer.

12. Pursuant to the IATA, "All costs of transportation, including the cost of transporting in-kind replacements Assets to the Transferor, shall be borne by the Recipient." Therefore, DEF must pay to have the DEP transformer transferred to DEF and also pay the costs of transporting the in-kind replacement back to Duke Energy Progress. Additionally, DEF shall pay the cost of installing and testing of the DEP transformer when it is returned to Duke Energy Progress and make Duke Energy Progress whole should the Duke Energy Progress Smith plant suffer any losses, such as loss of use, as a result of Duke Energy Progress not having immediate access to the DEP transformer as a result of the transfer. DEP ratepayers will not be negatively impacted.

13. When Duke Energy Progress releases the DEP transformer to DEF, the cost of the DEP transformer will be recorded on DEF's books at net book value and when Duke Energy Progress receives its in-kind transformer from DEF, Duke Energy Progress will record the cost of that transformer on its books at the net book value of the transformer transferred to DEF. The difference between that amount and the actual cost of the in-kind transformer will be recorded on the books of DEF.

14. The South Carolina Office of Regulatory Staff has been served with a copy of this application and exhibit.

15. Given exigent circumstances exist for DEF, Duke Energy Progress asks that this Commission issue an appropriate order as soon as possible approving the relief sought in this Application and grant such other and further relief as this Commission may deem just and proper.

WHEREFORE, Applicant prays that, pursuant to S.C. Code Section 58-27-1300 (Cum. Supp. 2012) and other applicable rules and regulations, the Commission enter an order approving the transfer of the DEP transformer.

Respectfully submitted this 8th day of May, 2014.



Timika Shafeek-Horton
Deputy General Counsel
Duke Energy Carolinas, LLC
550 South Tryon Street, DEC45A
Charlotte, North Carolina 28202
Tel: 704-382-6373
Fax: 980-373-8534
Timika.Shafeek-Horton@duke-energy.com

OFFICIAL COPY

EXHIBIT 1
ATTACHMENT 7

FILED

JUL 30 2013

INTERCOMPANY ASSET TRANSFER AGREEMENT

This Intercompany Asset Transfer Agreement (this "Agreement") is made and entered into as of _____ (the "Effective Date") by and among Duke Energy Carolinas, LLC, a North Carolina limited liability company ("DE Carolinas"), Duke Energy Ohio, Inc., an Ohio corporation ("DE Ohio"), Duke Energy Indiana, Inc., an Indiana corporation ("DE Indiana"), Duke Energy Progress, Inc., a North Carolina corporation ("DE Progress"), Duke Energy Florida, Inc., a Florida corporation ("DE Florida"), and Duke Energy Kentucky, Inc., a Kentucky corporation ("DE Kentucky") (collectively the "Operating Companies" and, individually, an "Operating Company"). This Agreement supersedes and replaces in its entirety the Intercompany Asset Transfer Agreement dated July 2, 2012.

Clerk's Office
NC Utilities Commission

WITNESSETH:

WHEREAS, Duke Energy Corporation ("Duke Energy") is a Delaware corporation;

WHEREAS, each Operating Company is a subsidiary of Duke Energy and a public utility company;

WHEREAS, in the ordinary course of their businesses, the Operating Companies maintain inventory and other assets for the operation and maintenance of their respective electric utility, and with respect to DE Ohio and DE Kentucky, gas utility, businesses; and

WHEREAS, subject to the terms and conditions herein set forth, and taking into consideration the Operating Companies' utility responsibilities, each Operating Company is willing, upon request from time to time, to transfer Assets, as defined herein, to each other Operating Company, as each shall request from each other.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties agree as follows:

ARTICLE 1. TRANSFER OF ASSETS

Section 1.1 Transfer. Upon request from one party ("Recipient"), the other party ("Transferor") shall transfer to the Recipient those Assets requested by Recipient, provided that (i) Transferor believes, in its reasonable judgment, that such transfer will not jeopardize Transferor's ability to render electric utility service to its customers consistent with Good Utility Practice; (ii) the Cost of any shipment of transmission- or generation-related item(s) does not exceed \$10,000,000; (iii) DE Carolinas and DE Progress shall not transfer any Asset hereunder in contravention of S.C. Code Ann. § 58-27-1300; (iii) DE Kentucky shall not transfer any Asset hereunder in contravention of KRS 278.218; (iv) DE Carolinas and DE Progress shall not transact with DE Ohio's generation operation under this Agreement and shall not transact with DE Kentucky or DE Indiana for purposes of circumventing or avoiding this prohibition; and (v) DE Carolinas and DE Progress may transfer or take receipt of any transmission transformers or other transmission-related equipment under this Agreement to or from DE Carolinas, DE

Progress or DE Florida. DE Carolinas and DE Progress shall not, however, transfer or take receipt of any transmission transformers or transmission-related equipment to or from DE Ohio, DE Indiana, and DE Kentucky, other than transmission-related equipment that may be used on/with transformers within a range of voltages or regardless of voltage. "Assets" means parts inventory, capital spares, equipment and other goods except for the following: coal; natural gas; fuel oil used for electric power generation; emission allowances; electric power; and environmental control reagents. "Good Utility Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in the United States during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather includes all acceptable practices, methods, or acts generally accepted in the region.

Section 1.2 Compensation. Except to the extent otherwise required by Section 482 of the Internal Revenue Code or analogous state tax law, Recipient shall compensate Transferor for any Assets transferred hereunder at Cost; provided however that any transfers of electric generation-related Assets between DE Ohio, on the one hand, and DE Indiana, or DE Kentucky on the other hand, will be priced in accordance with Federal Energy Regulatory Commission's ("FERC") affiliate transaction pricing requirements. Accordingly, generation-related Assets transferred from DE Indiana or DE Kentucky to DE Ohio shall be priced at the greater of Cost or market, and generation-related Assets transferred from DE Ohio to DE Indiana or DE Kentucky shall be priced at no more than market. "Cost" means (i) for items of inventory accounted for in the FERC Uniform System of Accounts account 154 ("Inventory Items"), the average unit price of such Inventory Items as recorded on the books of the Transferor, plus stores, freight, handling, and other applicable costs, and (ii) for assets other than Inventory Items, net book value.

Alternatively, to the extent that an Asset may be transferred under this Agreement, the Transferor and Recipient may agree that the Asset transferred to the Recipient be replaced in kind. In this event, Transferor and Recipient shall agree to the timing of such replacement, and other necessary terms and conditions, and such in-kind replacement shall be deemed a transferred Asset for all purposes hereunder.

Section 1.3 Payment. Each Operating Company shall reasonably cooperate with each other Operating Company to record billings and payments required hereunder in their common accounting systems.

Section 1.4 Delivery, Title and Risk of Loss. The parties shall cooperate in providing transportation equipment necessary to deliver the Assets to the Recipient. Assets will be delivered FOB transportation equipment at the Transferor's location where such Assets reside ("Shipping Point"). All costs of transportation, including the cost of transporting in-kind replacement Assets to Transferor, shall be borne by the Recipient. Title to and risk of loss of the transferred Assets shall pass from the Transferor to the Recipient at the Shipping Point.

ARTICLE 2. WARRANTIES

Section 2.1 Warranties. Each Operating Company, as Transferor, warrants that it will have good and marketable title to the Assets transferred hereunder. Further, each Operating Company, as Transferor, warrants that it shall obtain release of any liens or other encumbrances on the transferred Assets within a reasonable time. ALL ASSETS TRANSFERRED HEREUNDER ARE BEING SOLD "AS IS, WHERE IS" AND WITHOUT ANY WARRANTY AS TO ITS CONDITION, INCLUDING WITHOUT ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Section 2.2 Disclaimer. WITH RESPECT TO ANY ASSETS TRANSFERRED HEREUNDER, EACH OPERATING COMPANY AS TRANSFEROR MAKES NO WARRANTY OR REPRESENTATION OTHER THAN AS SET FORTH IN SECTION 2.1, AND THE PARTIES HERETO HEREBY AGREE THAT NO OTHER WARRANTY, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING BUT NOT LIMITED TO ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE), SHALL BE APPLICABLE TO SUCH ASSETS. THE PARTIES FURTHER AGREE THAT THE REMEDIES STATED HEREIN ARE EXCLUSIVE AND SHALL CONSTITUTE THE SOLE AND EXCLUSIVE REMEDY OF ANY PARTY HERETO FOR A FAILURE BY ANY OTHER PARTY HERETO TO COMPLY WITH ITS WARRANTY OBLIGATIONS.

ARTICLE 3. INDEMNIFICATION

Section 3.1 Indemnification; Limitation of Liability.

(a) Subject to subparagraph (b) of this Section 3.1, each party (the "Indemnifying Party") shall release, defend, indemnify and hold harmless the other party (the "Indemnified Party"), including any officer, director, employee or agent thereof, from and against, and shall pay the full amount of, any loss, liability, claim, damage, expense (including costs of investigation and defense and reasonable attorneys' fees), whether or not involving a third-party claim, incurred or sustained by or against any such Indemnified Party arising, directly or indirectly, from or in connection with Indemnifying Party's negligence or willful misconduct in the performance of its obligations hereunder.

(b) Notwithstanding any other provision hereof, each party's total liability hereunder with respect to any Assets shall be limited to the amount actually paid to Transferor for such Assets for which the liability arises, and under no circumstances shall Transferor be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise (it being the intent of the parties that the indemnification obligations in this Agreement shall cover only actual damages and accordingly, without limitation of the foregoing, shall be net of any insurance proceeds actually received in respect of any such damages).

Section 3.2 Procedure for Indemnification. Within 15 business days after receipt by an Indemnified Party of notice of any claim or the commencement of any action, suit, litigation or other proceeding against it (a "Proceeding") with respect to which it is eligible for indemnification hereunder, the Indemnified Party shall notify the Indemnifying Party thereof in writing (it being understood that failure so to notify the Indemnifying Party shall not relieve the latter of its indemnification obligation, unless the Indemnifying Party establishes that defense thereof has been prejudiced by such failure). Thereafter, the Indemnifying Party shall be entitled to participate in such Proceeding and, at its election upon notice to such Indemnified Party and at its expense, to assume the defense of such Proceeding. Without the prior written consent of such Indemnified Party, Indemnifying Party shall not enter into any settlement of any third-party claim that would lead to liability or create any financial or other obligation on the part of such Indemnified Party for which such Indemnified Party is not entitled to indemnification hereunder. If such Indemnified Party has given timely notice to Indemnifying Party of the commencement of such Proceeding, but Indemnifying Party has not, within 15 business days after receipt of such notice, given notice to Indemnified Party of its election to assume the defense thereof, Indemnifying Party shall be bound by any determination made in such Proceeding or any compromise or settlement made by Indemnified Party. A claim for indemnification for any matter not involving a third-party claim may be asserted by notice from the applicable Indemnified Party to Indemnifying Party.

ARTICLE 4. MISCELLANEOUS

Section 4.1 Amendments. Any amendments to this Agreement shall be in writing executed by each of the parties hereto. To the extent that applicable state law or regulation or other binding obligation requires that any such amendment be filed with any affected state public utility commission for its review or otherwise, each Operating Company shall comply in all respects with any such requirements.

Section 4.2 Effective Date; Term. This Agreement shall become effective on the Effective Date and shall continue in full force and effect until terminated by either party upon not less than 30 days prior written notice to the other party. This Agreement may be terminated and thereafter be of no further force and effect upon the mutual consent of the parties hereto.

Section 4.3 Entire Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any prior or contemporaneous contracts, agreements, understandings or arrangements, whether written or oral, with respect thereto. Any oral or written statements, representations, promises, negotiations or agreements, whether prior hereto or concurrently herewith, are superseded by and merged into this Agreement.

Section 4.4 Severability. If any provision of this Agreement or any application thereof shall be determined to be invalid or unenforceable, the remainder of this Agreement and any other application thereof shall not be affected thereby.

Section 4.5 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned, in whole or in part, by operation of law or otherwise by any party hereto without the prior written consent of the other party. Any attempted or purported assignment in violation of the preceding sentence shall be null and void and of no effect whatsoever. Subject to the preceding two sentences, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 4.6 Governing Law. This Agreement shall be construed and enforced under and in accordance with the laws of the State of New York, without regard to conflicts of laws principles.

Section 4.7 Captions, etc. The captions and headings used in this Agreement are for convenience of reference only and shall not affect the construction to be accorded any of the provisions hereof. As used in this Agreement, "hereof," "hereunder," "herein," "hereto," and words of like import refer to this Agreement as a whole and not to any particular section or other paragraph or subparagraph thereof.

Section 4.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed a duplicate original hereof, but all of which shall be deemed one and the same Agreement.

Section 4.9 DE Carolinas and DE Progress Conditions. In addition to the terms and conditions set forth herein, with respect to DE Carolinas and DE Progress, the provisions set out in Exhibit A are hereby incorporated herein by reference. In addition, except with respect to the pricing of Asset transfers as set forth herein, DE Carolinas' and DE Progress' participation in this Agreement is explicitly subject to the Regulatory Conditions and Code of Conduct approved by the NCUC in its Order Approving Merger Subject to Regulatory Conditions and Code of Conduct issued June 29, 2012 in Docket No. E-7, Sub 986 and E-2, Sub 998 ("Merger Order"), as such Regulatory Conditions and Code of Conduct may be amended from time to time. In accordance with Regulatory Condition 9 as approved in the Merger Order, nothing in this Agreement shall be construed or interpreted so as to commit DE Carolinas or DE Progress, or to involve DE Carolinas or DE Progress in, joint planning, coordination, or operation of generation, transmission, or distribution facilities with one or more affiliates nor shall it be interpreted as otherwise altering DE Carolinas' or DE Progress' obligations with respect to the Regulatory Conditions approved in the Merger Order. In the event of a conflict between the provisions of this Agreement and the Regulatory Conditions and Code, the Regulatory Conditions and Code shall govern, except as altered by the Commission by Order for this Agreement.

Section 4.10 DE Indiana Conditions. DE Indiana agrees and acknowledges that in accordance with its Affiliate Standards, Section II O (i) it will make Assets available to non-affiliated wholesale power marketers under the same terms, conditions and prices, and at the same time, as it makes Assets available to a DE Ohio's wholesale power marketing function, and (ii) it will process all requests for Assets from DE Ohio's wholesale power marketing function and non-affiliated wholesale power marketers on a non-discriminatory basis.

Section 4.11 Regulatory Approvals. This Agreement is expressly contingent on the receipt of all regulatory approvals or waivers deemed necessary by the parties.

EXHIBIT 1
ATTACHMENT 7

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed on its behalf by an appropriate officer thereunto duly authorized.

Duke Energy Carolinas, LLC

By: _____
Nancy M. Wright
Assistant Secretary

Duke Energy Indiana, Inc.

By: _____
Nancy M. Wright
Assistant Corporate Secretary

Duke Energy Ohio, Inc.

By: _____
Nancy M. Wright
Assistant Corporate Secretary

Duke Energy Kentucky, Inc.

By: _____
Nancy M. Wright
Assistant Corporate Secretary

Duke Energy Progress, Inc.

By: _____
Nancy M. Wright
Assistant Secretary

Duke Energy Florida, Inc.

By: _____
Nancy M. Wright
Assistant Secretary

EXHIBIT A

DE CAROLINAS and DE PROGRESS CONDITIONS

In connection with the North Carolina Utilities Commission ("NCUC") approval of the Merger in NCUC Docket No. E-7, Sub 986 and Docket No. E-2, Sub 998, the NCUC imposed certain Regulatory Conditions ("Regulatory Conditions") and adopted a revised Code of Conduct governing transactions between DE Carolinas, DE Progress, and their affiliates ("Code of Conduct"). Pursuant to the Regulatory Conditions and Code of Conduct, the following provisions are applicable to DE Carolinas and DE Progress and considered to be incorporated into the Intercompany Asset Transfer Agreement:

(1) DE Carolinas' and DE Progress' participation in this Agreement is voluntary. Neither DE Carolinas nor DE Progress is obligated to take or provide services or make any purchases or sales pursuant to this Agreement, and DE Carolinas or DE Progress may elect to discontinue its participation in this Agreement at its election after giving notice under Section 4.2 of the Agreement.

(2) Neither DE Carolinas nor DE Progress may make or incur a charge under this Agreement except in accordance with North Carolina law and the rules, regulations and orders of the NCUC promulgated thereunder.

(3) Neither DE Carolinas nor DE Progress may seek to reflect in rates any (i) costs incurred under this Agreement exceeding the amount allowed by the NCUC or (ii) revenue level earned under this Agreement less than the amount imputed by the NCUC; and

(4) DE Carolinas and DE Progress will not assert in any forum that the NCUC's authority to assign, allocate, make pro-forma adjustments to or disallow revenues and costs for retail ratemaking and regulatory accounting and reporting purposes is preempted and will bear the full risk of any preemptive effects of federal law with respect to this Agreement.

(5) DE Carolinas and DE Progress shall retain appropriate documentation verifying compliance with the terms hereof for Public Staff and NCUC review.

(6) DE Carolinas and DE Progress shall submit to the NCUC for approval any changes in the terms and conditions of this Agreement having or likely to have a material effect on DE Carolinas or DE Progress.

(7) DE Carolinas and DE Progress acknowledge and agree that for ratemaking purposes, NCUC approval of DE Carolinas' and DE Progress' participation in this Agreement does not constitute approval of the amount of compensation paid with respect to transactions pursuant to the Agreement, and that the authority granted by the NCUC is without prejudice to the right of any party to take issue with any provision of the Agreement or with any transaction pursuant thereto in a future proceeding.